

**CITY OF MILPITAS  
UNAPPROVED**

**PLANNING COMMISSION MINUTES**

**December 10, 2003**

**I.  
PLEDGE OF  
ALLEGIANCE**

**Chair Nitafan** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.  
ROLL CALL**

Present: Nitafan, Williams, Galang, Giordano, Lalwani and Sandhu  
Absent: None  
Staff: Fujimoto, Heyden, Lindsay, Reliford and Rodriguez

**III.  
PUBLIC FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers from the audience.

**IV.  
APPROVAL OF MINUTES  
November 12, 2003**

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of November 12, 2003.

There were no changes from staff.

**Motion** to approve the minutes as submitted.

M/S: Williams/Giordano

AYES: 6

NOES: 0

**V.  
ANNOUNCEMENTS**

**James Lindsay, Acting Planning Manager**, announced that as of last night's Planning Commission interviews, the two new Commissioners are Al Garcia (Community Advisory Commission Chair) and Zeya Mohsin (member of the Parks, Recreation, and Cultural Resources Commission). He noted that the January 14, 2004 meeting will be their first meeting, and staff will hold a training session beforehand. He also noted that since this is Vice Chair Williams last meeting, Commissioner Lalwani will be stepping up as a regular member of the Subcommittee meeting along with Chair Nitafan, and Commissioner Galang will be the alternate.

**Vice Chair Williams** expressed how grateful he is to the community for allowing him to serve on the Commission and explained how planning has been a very exciting, challenging and rewarding experience to see projects being fulfilled. He felt blessed and honored for what he has gained for serving on the Commission and gave recognition to mentors such as Bill rush and Ed Unger. He noted that he always sat at the end of the dais because of respect to Ed Unger and is sorry to hear that he is ill and sends him his best wishes that he feels better.

Vice Chair Williams also announced that he was called by some high level folks in the GOP to run for the 20<sup>th</sup> assembly district and has accepted. He leaves the City with sadness, and also warmth and appreciation, and thanks each and everyone for making him a better person and wishes everyone much success

Vice Chair Williams abstained from voting on Agenda Item No. 2 (Use Permit No. P-UP2003-45) since his business is in close proximity to the property and asked to be excused from Agenda Item No. 10 (Status Review of Housing Element Implementation Policies) and Agenda Item No. 11 (Personal Rapid Transit Presentation) since no action is required. The Commission agreed.

**Commissioner Galang** abstained from voting on Agenda Item No. 1 (S-Zone Approval (P-SZ2003-10), Use Permit No. P-UP2003-34, Variance No. P-VA2003-3 and EIA No. P-EA2003-10) since his business is in close proximity to the property and requested that Agenda Item No. 1 be the last discussion item. Chair Nitafan disagreed since Vice Chair Williams has asked to leave first.

Commissioner Galang wished everyone a Happy New Year and advised to spend wisely and not to leave children unattended.

**Commissioner Giordano** commented that Vice Chair Williams will be missed and that she enjoyed working with him. She liked what he said about Ed Unger and recalled that Paul Hay expressed the same words and noted that she will pass those words along to Ed Unger.

In regards to the Planning Commission packet, Commissioner Giordano noted that she received a UC Davis extension form for the 'Role of the Planning Commissioner' class. She noted that she had attended the class and thought it was worthwhile and advised staff that they might want to pass this along to the two new Commissioners.

**Commissioner Lalwani** commented that Vice Chair Williams would be missed and noted that he brought the wisdom and was fun to work with for the last three years. She welcomed the two new commissioners, Al Garcia and Zeya Mohsin, and said they represent the diversity of Milpitas.

**Commissioner Sandhu** also thanked Vice Chair Williams and noted he had the privilege of graduating with him from the Santa Clara Valley Leadership program and that he will be missed.

Chair Nitafan congratulated Al Garcia and Zeya Mohsin for coming aboard and thanked the City Council for hiring the most qualified candidates. Chair Nitafan also congratulated Vice Chair Williams for serving three years with the Planning Commission and three years with the Telecom Commission. He also echoed Vice Chair Williams comments about Ed Unger and Bill Rush and wished Vice Chair Williams good luck for running for the 20<sup>th</sup> district Assembly.

Chair Nitafan called for approval of the agenda.

There were no changes from staff.

**Motion** to approve the agenda as submitted.

M/S: Lalwani/Sandhu

AYES: 6

NOES: 0

## **VI. APPROVAL OF AGENDA**

**VII.  
CONSENT CALENDAR  
Item Nos. 3, 4, 5, 6, 7, 8 and  
9**

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Mr. Lindsay asked that Agenda Item No. 9 ("S" Zone Approval Amendment (P-SA2003-155) be taken off of the consent calendar due to receiving new information from the applicant and the Commission agreed.

Chair Nitafan opened the public hearing on Consent Item Nos. 3, 4, 5, 6, 7 and 8.

There were no speakers from the audience.

**Close Public Hearing on  
Item Nos. 3, 4, 5 and 6 and  
Continue Public Hearing  
on Item Nos. 7 and 8**

**Motion** to close the public hearing on Item Nos. 3, 4, 5 and 6 and continue Item No. 7 to January 28, 2004 and Item No. 8 to January 14, 2004.

M/S: Williams/Giordano

AYES: 6

NOES: 0

**Motion** to approve the consent calendar on Consent Item Nos. 3, 4, 5, 6, 7 and 8.

**\*3 SIX MONTH REVIEW (P-PR2003-4):** A request for an existing take out restaurant (VK FOOD #3) in regards to any solid waste or odor issues and to verify compliance with all approved special conditions for previously approved Use Permit No. P-UP2002-26 at 141 Dixon Road (APN: 026-05-019). Applicant: Emily Truong. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ# 2296) *(Recommendation: Approval with Conditions)*

**\*4 TIME EXTENSION NO. P-TE2003-7:** A request for an 18-month time extension for six (6) new apartment units located at 1129-1143 Edsel Court and 1116 & 1124 Shirley Drive (APN: 088-03-057 to 059 & 064 to 066). Applicant: Vincente Songcayawon. Project Planner: Kim Duncan, (408) 586-3283. (PJ# 2295) *(Recommendation: Approval to City Council)*

**\*5 USE PERMIT NO. P-UP2003-51:** Request to operate a label manufacturing and print shop in an existing 10,250 square foot industrial building at 472 Vista Way (APN: 086-29-068). Applicant: Tek Label & Printing. Project Planner: Staci Pereira, (408) 586-3278. *(Recommendation: Approval with Conditions)*

**\*6 USE PERMIT NO. P-UP2003-52 AND SITE AND ARCHITECTURAL (P-SA2003-150) APPROVAL AMENDMENT:** A request to modify a row of parking spaces (approximately 15 spaces) by reducing the length of the parking space from 18 feet to 15 feet and to reduce the drive aisle width from 25 feet to 23 feet to preserve five (5) protected trees at 100 N. Milpitas Boulevard (APN 28-12-021). Applicant: Shapell Industries of Northern California. Project Planner: Troy Fujimoto, (408) 586-3287. *(Recommendation: Approval with Conditions)*

- \*7 USE PERMIT NO. P-UP2003-46 AND 'S' ZONE AMENDMENT NO. P-SA2003-135:** Request to operate a child care facility for up to 36 children without providing eight (8) parking spaces and associated site improvements including parking lot modifications and new exterior gated play area in the community center of The Crossings at 757 E. Capitol Avenue (APN: 092-08-95). Applicant Montague Parkway Associates. Project Planner: Staci Pereira, (408) 586-3278. (PJ# 2355) *(Recommendation: Continue to January 28, 2004)*
- \*8 USE PERMIT NO. P-UP2003-47:** Request to operate a cafe, Starbuck's, with 34 indoor and 13 outdoor seats without providing thirteen (13) required parking spaces at 1487 Landess Avenue (APN: 088-35-011). Applicant: Zeden Jones. Project Planner: Staci Pereira, (408) 586-3278. (PJ# 2357) *(Recommendation: Continue to January 14, 2003)*

M/S: Giordano/Lalwani

AYES: 6

NOES: 0

## VIII. PUBLIC HEARINGS

Chair Nitafan opened the public hearing on Agenda Item No. 1.

Commissioner Galang left the Council Chambers.

**1. S-ZONE APPROVAL (P-SZ2003-10), USE PERMIT NO. P-UP2003-34, VARIANCE NO. P-VA2003-3 AND EIA NO. P-EA2003-10:** A request to redevelop an existing site and construct two buildings and site improvements, at 750 E. Calaveras Boulevard. *Applicant: IDA.*

**Troy Fujimoto, Acting Associate Planner,** presented a PowerPoint presentation for a S-Zone Approval (P-SZ2003-10), Use Permit No. P-UP2003-34, Variance No. P-VA2003-3 and EIA No. P-EA2003-10, a request to redevelop an existing site and construct two buildings and site improvements, including a 5,000 square foot restaurant and a two-story 11,000 square foot office building, a use permit for a restaurant and for not providing eleven (11) required parking spaces, a variance for a rear yard reduction and landscape reduction and a related mitigated negative declaration at 750 E. Calaveras Boulevard. Mr. Fujimoto recommended approval with conditions based on the findings and conditions noted in the staff report.

Commissioner Giordano asked what is the unique circumstance for allowing the variance. Mr. Fujimoto responded that the unique circumstance for the variance is that the site is extremely long and narrow and has stringent standards to landscape and has a 35-foot setback. The variance is needed to reduce the side yard setback and to reduce the required landscape buffer width.

Mr. Lindsay noted that Mr. Fujimoto passed out a memo with a change to condition no. 4 that reads the following:

4. Building permit plans shall incorporate the following design modifications to the approval of the Planning Division:
  - a) Provide vertical interest to the office building roof elevation to break up the uninterrupted roofline.

- b) Modify the existing eastern elevation of the restaurant building to include additional architectural features and elements to provide interest.
- c) Modify the “cap” of the vertical element on the restaurant to better integrate with the architecture of the buildings unless this element can be repeated elsewhere in the building.
- d) Revise the perimeter/property wall to provide vertical symmetry to the architecture of the building
- e) ***At the time of revision to the plans, the use of color will be reviewed to ensure that it complements the architecture of the building.***

Commissioner Lalwani asked why were the architect and staff not in agreement with the design aspects and Mr. Fujimoto responded that they were not in agreement with some of the design elements such as the dome shape of the building.

Vice Chair Williams asked what type of material is the back wall made from along Berryessa Creek and Mr. Fujimoto responded that the wall is made out of basic masonry with stucco and tile inserts.

Vice Chair Williams mentioned his concerns of the wall becoming a target for graffiti artists and was concerned that he didn’t see any proposed shrubbery to preclude taggers from coming there. Mr. Fujimoto responded that the creek doesn’t take up the entire right of way and that anything that gets done near the creek needs to get approval from the Santa Clara Valley Water District. He noted that the building has been pushed as back as far as they could, and what was left was a five-foot setback from the building to the property line.

Vice Chair Williams asked what was the discussion between the applicant and staff to enhance the building and Mr. Fujimoto commented that first the applicant presented a different type of architecture that was very busy, and a lot of elements weren’t tied together, then staff asked them to clean it up, which they really cleaned up. He explained that staff and the applicant were trying to find a middle ground that doesn’t degrade the visual look of the building.

Commissioner Sandhu asked if the current structure will be demolished and Mr. Fujimoto responded “Yes”.

Chair Nitafan was concerned that there wasn’t going to be enough parking for the restaurant and Mr. Fujimoto explained that the applicant meets the parking requirements and that the restaurant is 2,000 feet smaller than the previous restaurant. He also noted that the applicant has done a traffic study that meets the parking requirements and that staff felt they could support the proposal without any parking reduction.

Chair Nitafan also mentioned his concerns about the nearby creek and noted that it should be cleaned annually. He explained that when it rains, there is a lot of overflow of water in the parking lot and a good grading system is needed. Mr. Fujimoto responded that when the plans go to Engineering, they would double check the drainage as proposed and the applicant will probably have to provide a study that shows there will be no flooding.

Chair Nitafan opened the public hearing

There were no speakers from the audience.

**Close Public Hearing**

**Motion** to close the public hearing.

M/S: Giordano/Williams

AYES: 5

NOES: 0

**Motion** to approve S-Zone Approval (P-SZ2003-10), Use Permit No. P-UP2003-34, Variance No. P-VA2003-3 and EIA No. P-EA2003-10 with special conditions and findings noted in the staff report and amended special condition no. 4 that is stated above.

M/S: Giordano/Sandhu

AYES: 5

NOES: 0

Commissioner Galang returned to the Council Chambers.

The Commission agreed to discuss Agenda Item No. 9 ("S" Zone Approval Amendment (P-SA2003-155) before Agenda Item No. 2 so that Vice Chair Williams could be dismissed early.

**IX. NEW BUSINESS**

Chair Nitafan opened up Agenda Item No. 9 for discussion.

**2. "S" ZONE APPROVAL AMENDMENT (P-SA2003-155):** Request to remove 22 protected trees and replace landscaping located at 542-568 Gibraltar Drive.  
*Applicant: Bedford Property Investors*

**James Lindsay, Acting Planning Manager,** presented an "S" Zone Approval Amendment (P-SA2003-155), a request to remove 22 protected trees and replace landscaping located at 542-568 Gibraltar Drive and recommended approval with the modified conditions that read as follows:

1. This "S" Zone Approval-Amendment is only for the removal of twenty-two (22) trees identified as shown on plans submitted on October 16, 2003. (P)
2. This approval shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved plans. (P)

3. Prior to tree removal permit issuance; the applicant shall submit a tree replacement plan for Planning Division Approval. Plans shall include the following:
  - A tree replacement ratio of two to one (22 additional trees) to offset the loss of mature trees. If a certified arborist concludes that not all twenty-two (22) additional trees can be located on the property than the remaining trees of similar value shall be placed off-site to the approval of the City's Trees and Landscaping Division. If a suitable replacement location of the trees is not possible off-site than the applicant shall pay an in-lieu fee to the City based on the cost of the number and size of box trees of the same species, delivered and installed.
  - Incorporate 3 planting strips 8 feet wide and 4 feet beyond the last tree in the row.
  - Utilize linear root barriers.
  - Replace fill with structural soil mixture.
  - Include deep watering tubes to encourage deep rooting and downward root growth.
  - Widen the existing planter strip that is located in the rear parking lot, behind Building B by two feet.

If the tree
4. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), developer is required to obtain a permit for removal of any existing tree (s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. (E)

Regarding condition no. 3, Commissioner Giordano asked if it is appropriate to charge the applicant with an in-lieu fee that is not in place yet. Mr. Lindsay replied, "Yes" since it is in the form of a condition of approval.

Commissioner Giordano asked if this is the first time that staff has applied an in-lieu fee to an applicant and Mr. Lindsay responded, "Yes", and that the applicant has been given this condition at the same time the Commission has and he would like the applicant to provide feedback.

Commissioner Giordano asked if the in-lieu fee was the best alternative and Mr. Lindsay responded that the in-lieu fee was a last resort for the applicant and that they have two other options that are stated above.

Commissioner Lalwani asked if the applicant and staff had a prior discussion to the conditions of approval and Mr. Lindsay replied that the applicant has reviewed the conditions and they have reviewed the report.

Chair Nitafan introduced the applicant and noted that this is not a public hearing item.

**Anne Hoffman, Bedford Property Investors**, explained that this application was supposed to be a simple parking lot maintenance project and explained that the trees have done damage to the parking lot and in order to remove the asphalt, the trees have to be removed and the Arborist she hired felt that the 2:1 ratio is not appropriate because the area is maxed out with trees.

Ms. Hoffman referenced the arborist report that the trees have caused damage to the parking lot, and she wants to make sure that the parking lot is safe for the tenants. The City has accepted that the applicant needs to remove all of the trees, and one of the conditions is that the landscape strips be widened, which she is not in agreement with. Ms. Hoffman also noted that she is not in agreement with the structural soil fill since it is a new concept and can only be found one place in the bay area and prefers the traditional soil method and also disagreed with the in-lieu fee because of the current economic conditions.

Commissioner Lalwani asked if the applicant object to the fees and Ms. Hoffman replied, "Yes".

Commissioner Lalwani mentioned her confusion about the 2:1 ratio and Mr. Lindsay explained that staff is requesting two trees be planted for every tree that is being removed. He also explained that when a tree is replaced, the City loses the canopy of the trees and it takes about 20 years to replace the trees.

Commissioner Lalwani asked if 44 trees would be too crowded in the area and Mr. Lindsay replied that the City doesn't want to create an overcrowded condition and that is why they are looking at an offsite location.

**Tambri Heyden, Acting Planning and Neighborhood Serviced Director**, added that the reason why the 2:1 policy was put in place was that the City over the years has tried to achieve a no net loss in terms of the canopy, environmental, shade, oxygen, carbon dioxide, storm water, and a number of benefits to not losing trees of that size, or additional trees that can provide the canopy of a quicker rate. She explained that when you lose the size of the canopy, two smaller trees will help you get to the canopy at a quicker rate and that this new idea to the tree ordinance allows staff a greater flexibility of a no loss canopy to reach that goal, so that the City is not losing and trying to keep up.

Commissioner Lalwani empathized with the applicant and felt that the 2:1 ratio is a very heavy price to pay since it is not in the ordinance.

Chair Nitafan noted that the Commission shouldn't care about the dollar value but should look at Planning in general. He understands that the 2:1 ratio policy allows the applicant to plant trees to other areas.

Mr. Lindsay added that once the trees are planted off site, they will need to stay there and in the future, if the applicant needs to replace additional trees, staff would follow the 2:1 ratio.



Vice Chair Williams commented that the whole scenario seems perplexing in that the 2:1 ratio should depend on the type of tree. For example, he noted that if you have a small needle tree, its carbon dioxide to oxygen range ratio would be different to that of a Maple tree.

Ms. Heyden explained that she is not sure how long the policy has been in place and that the City has been using the 2:1 policy for many years and has not had any trouble. She explained that the only time tree issues come forward to the Commission is when the trees are protected and that the options mentioned to the applicant are the most cost effective. She mentioned that the policy has been effective in trying to keep Milpitas green.

In his recollection, Vice Chair Williams noted that he has had numerous discussions about protective trees and species, and this is the first time we have had this type of scenario where we are addressing the loss of canopy. He still felt that that the whole equation doesn't make sense.

Chair Nitafan noted staff might have to bring the project back to do more research.

Commissioner Giordano asked if the tree ordinance will be revised to include the in-lieu fee and Mr. Lindsay responded that the revised tree ordinance will come back in a few months.

Commissioner Giordano felt that the 2:1 ratio is a great model to allow for the integrity of the landscaping but she has an issue with the in-lieu fee. She also has a problem with the applicant being given the alternatives this evening and not enough space for the planting strips and until this ordinance is effective, she would not support staff's recommendation.

Chair Nitafan asked how many trees could the project site hold and no one knew the answer.

Commissioner Galang asked how old are the existing trees and Ms. Hoffman guessed about 15 to 20 years old.

Commissioner Galang asked why does the applicant want to replace the trees and Ms. Hoffman replied that the trees have ruined the parking lot, unsafe conditions in the parking lot, and the trees have lifted and split the curbs. She noted that the project is heavily planted with trees and there is a problem with squeezing more trees in this site and the tenants will be spending more money on maintenance for the trees.

Commissioner Galang said that he supports Chair Nitafan's recommendation to give staff more time to research the project because the Commission did not receive pictures of the replacement trees.

Ms. Hoffman mentioned her frustration that she did not receive the staff report until late on Friday and that she has spent a tremendous amount of resources on a maintenance project.

Chair Nitafan made a **motion** that he would support staff's recommendation of the 2:1 policy and that if there are extra trees, they will be planted outside the area.

Commissioner Galang and Commissioner Sandhu seconded the motion.

Commissioner Giordano still felt that a 5 by 5 space in the parking lot was not workable and asked if the Commission would be imposing an in-lieu fee.

Chair Nitafan disagreed and said that he sees spaces that could be filled up with trees.

Commissioner Lalwani needed clarification on the motion.

Chair Nitafan explained that the applicant could plant 30 trees in the parking lot and the other 14 trees could be planted somewhere else or the applicant could take the in-lieu fee option.

According to the aerial photo, Ms. Heyden noted that she could see spots where additional trees could be planted at other areas besides the planting strips.

Vice Chair Williams mentioned that he would be voting against staff's recommendation because of the systemic issue of the policy and that he is not clear as far as the implementation process goes.

Commissioner Giordano said she will be voting against staff's recommendation because she doesn't think the intent of the 2:1 ratio is to provide for the additional replacement value of mature trees where it is not feasible and doesn't think a fee should be imposed on the applicant since this is the first time it has happened.

Commissioner Lalwani felt that the 2:1 ratio is much more complicated and scientific and a lot depends on the ratio such as what kind of tree will be replaced and the environment aspect which makes it complicated. She will not be supporting the motion and would like staff to come back with better reasoning and proof of why the trees should be replaced.

Ms. Heyden noted that staff has done research on the ratio and that the City has the lowest replacement ratio than other cities.

**Motion** to approve "S" Zone Approval Amendment (P-SA2003-155) with staff's amended conditions noted above.

M/S: Nitafan/Galang

AYES: 3 (Nitafan, Galang, Sandhu)

NOES: 3 (Giordano, Williams, Lalwani)

Since this was a tie vote, Chair Nitafan asked the Commission to consider another motion.

Commissioner Giordano made a **motion** to approve "S" Zone Approval Amendment (P-SA2003-155), with utilizing any space available to plant the additional 22 trees, depending on availability of space, if it could be used, and to use up to the limitation of the 2:1 ratio, and not adding any additional charges to the applicant due to the limited availability of tree planting space in this project.

Commissioner Sandhu asked who will evaluate the number of trees that could fit on the property and Chair Nitafan replied “staff”. Chair Nitafan also added that the City has to stick with the policy of 2:1 ratio and in this case it is a special case, not a precedent to other projects in the future and the Commission agreed.

M/S: Giordano/Lalwani

AYES: 6

NOES: 0

Vice Chair Williams left the Council Chambers.

## **X. PUBLIC HEARING**

Chair Nitafan opened the public hearing on Agenda Item No. 2

**3. USE PERMIT NO. P-UP2003-45:** A request to add auto repair activities at 1503 North Milpitas Boulevard.  
*Applicant: Automotive R & D*

**Troy Fujimoto, Acting Associate Planner**, presented Use Permit No. P-UP2003-45, a request to add auto repair activities to an existing after-market auto parts sales business without the required 11 automobile spaces at 1503 North Milpitas Boulevard and recommended approval with conditions based on the findings and conditions noted in the staff report.

Mr. Lindsay clarified condition no. 1 to read the following:

- 1. This Use Permit No. P-UP2003-45 approval is to add auto parts installation to an existing auto retail business without the eleven (11) required parking spaces, as shown on approved plans dated December 10, 2003, except as may be otherwise modified by these conditions of approval. Modifications to the proposed use (ex. adding painting, auto body work, engine or transmission repair) or removal of the retail portion of the business (change to an auto repair facility only) will require review and approval by the Planning Commission of an amendment to this Use Permit. (P)*

Chair Nitafan opened the public hearing on Agenda Item No. 2.

**Concerned Resident, representing Jensen’s School of Performing Arts, 1491 N. Milpitas Blvd.**, was concerned about additional cars speeding through the parking lot to have work done and requested that speed bumps be installed so that children don’t have to worry about getting run over. Mr. Lindsay noted that staff contacted the Police Department and were not aware of any speed problems and that the Police haven’t received any complaints.

## **Close Public Hearing**

**Motion** to close the public hearing.

M/S: Sandhu/Giordano

AYES: 5

NOES: 0

Commissioner Lalwani made a **motion** to approve Use Permit No. P-UP2003-45 and Commissioner Sandhu seconded it.

Commissioner Galang requested that the applicant come forward to speak.

**Rishie Garg, Applicant**, resident of Milpitas for six years, said he was available for questions.

Commissioner Galang asked if the doors will be closed during operation and Mr. Garg replied, "Yes".

Commissioner Galang asked what type of work would be done and Mr. Garg replied that the business sells body parts but does not install the products in house. He explained that his business will be offering tire and wheel mounting service to existing clientele, and that the business doesn't use hazardous materials. Mr. Garg also explained that the business would do car audio installation in the future.

Commissioner Galang asked if the applicant will be doing car suspension and Mr. Garg replied that they do suspension but most of the work is sent to other auto body shops on Minnis circle. Mr. Garg explained that facilities like his are stereotyped to illegal racing and speeding and wanted to make it clear that his facility is one of the few that does not condone illegal racing. The objective of his business is to inform people that there is a possibility of crashing your car or hurting public safety. He also noted that his facility would only take up 1 to 2 spots of parking at a time and the facility is ideal for him since it is only a 1/2 a mile away from his home.

Commissioner Galang asked if this business requires the use an air compressor and Mr. Garg replied, "Yes", and that it is located in the service bay area near the rear of the building. Commissioner Galang commented that he has a compressor in his office, but it is not quiet.

Mr. Garg noted that the compressor only makes noise when the tanks needs to be filled and that the tank is about 50 gallons He also noted that throughout the day, the compressor doesn't make that much noise.

Commissioner Galang asked staff if they did a check on the compressor and Mr. Lindsay replied that staff was aware of the compressor and didn't feel it would create noise around the surrounding areas. Mr. Fujimoto added that the applicant's hours are from 9 p.m. to 5 p.m. and they won't be operating in late hours.

Chair Nitafan asked if the business would have outdoor repair and Mr. Garg replied "No".

Commissioner Giordano asked where is the facility located near Jensen's and Mr. Garg replied that his business is on the north side of the parking lot and Jensen's is on the south side.

Commissioner Giordano noted that her daughter dances at Jensen's and most of the traffic is generated when parents drop off their children, and agrees that there is a safety issue when kids have to walk. She was concerned about an increase in traffic and felt that most of the applicant's customers would be going through the stoplight and not near Jensen's. She also felt that speed bumps should be implemented.

The Jensen's representative noted that the speed bumps are located in the rear of the building, not in the front.

Mr. Garg noted that the majority of the traffic in the past 2 to 3 months comes from the southern building, which is the one that Jensen's occupies, and his building doesn't have that many parking spots. The building that occupies the most parking is the Microstone computer place, but on his side of the parking lot it is very empty and very low traffic.

Commissioner Giordano commented that she would really like to help Jensen's get speed bumps but doesn't know how the Commission could tie the speed bumps to the application.

The Jensen's representative mentioned that before the meeting, he didn't know what the business was about and thought it would generate more traffic. He mentioned that he cannot control the way customers drive and that when you have an after auto markets parts store, people tend to drive faster. Commissioner Giordano commented that if speeding does cause problems in the future, Jensen's may want to talk to the property owner.

Regarding a letter dated December 2<sup>nd</sup> about a previous applicant that wanted an auto repair business, Mr. Fujimoto explained that back in the late 80's, two applications were proposed at the complex in Building C and were denied because of noise issues. Another applicant came to the City in the early 90's to apply for the same use but was discouraged to apply based on what had happened before.

Commissioner Giordano asked if the project has been properly noticed and Mr. Fujimoto replied, "Yes".

Commissioner Lalwani asked the applicant if the business will increase traffic and Mr. Garg replied, "No".

Motion to approve Use Permit No. P-UP2003-45 with special conditions noted in the staff report.

M/S: Lalwani/Sandhu

AYES: 5

NOES: 0

## **XI. NEW BUSINESS**

Chair Nitafan introduced Agenda Item No. 10 under New Business.

### **4. STATUS REVIEW OF HOUSING ELEMENT IMPLEMENTATION**

**POLICIES:** A staff presentation on housing development projects, affordable housing, and housing activities and policies. *Staff Contact: Felix Reliford.*

**Felix Reliford, Principal Housing Planner**, presented a status review of Housing Element Implementation policies on housing development projects, affordable housing, and housing activities and noted that no action is necessary.

In regards to the adjusted income level, Commissioner Giordano noted that 49.5% of the housing units are at the above moderate level. She asked if anyone is looking at breaking it down further to a higher income level at the next Housing Element review. Mr. Reliford responded that most cities do not break the category down because it is market driven, and if you can afford a house at the median price in the valley, you are at above moderate level.

Commissioner Giordano asked if the area median income is adjusted for current income or came from last year's data and Mr. Reliford responded that the current data was used for 2003.

Commissioner Giordano noted that with the recent approval of the units on Kennedy Drive, it is not included in the report under proposed projects. Mr. Reliford noted that she was right and he will add 19 units to his total.

Commissioner Giordano noted that the City should reach 55.5% of the total number of units to meet the ABAG regional fair share housing goals for the city and asked where we the City needs to be today. Mr. Reliford replied that the City is just the opposite and the City is at 28%. He explained that 4,348 units need to be provided and today the City has provided 1,217 units.

Commissioner Giordano asked if the 55.5 % includes proposed projects and asked what stage is the City at. Mr. Reliford responded that the City cannot include proposed projects because they are not developed yet.

Commissioner Giordano asked about the housing task force and Mr. Reliford said that he needs the blessing from senior management to go ahead with the housing task force but it would include bringing all of the development community together such as Tri Counties apartment association, Santa Clara County Association of Realtors, Chamber of Commerce, etc.

Commissioner Giordano asked how do low interest rate loan grants for financial assistant for affordable housing gets repaid back and how would residents know these loans are available. Mr. Reliford replied that the loans are from a CDBG program and low-income residents can apply for 0% to low interest rates. The City works with the residents and once the loan is paid, the money is put back into a revolving fund. Staff advertises in the POST and on local channel 15.

Mr. Reliford also noted that the state has extended the Housing Element deadline for the ABAG area to one more year, normally it goes from 1999 to June 30, 2006, and has been extended to June 30, 2007.

Commissioner Lalwani asked if the ABAG requirement for affordable housing is 20%. Mr. Reliford replied that ABAG does not have a requirement and explained that ABAG is the council of governments for the area and they have a mandate from the state to come out with the regional fair share for the cities and all they do is provide the numbers for the city based on housing population and job balance, and these are the numbers of housing that should be provided for income level.

Commissioner Lalwani noted that other cities have different rates for affordable housing and asked if the 20% includes senior housing. Mr. Reliford responded, "No", 20% of affordable housing is not allocated toward seniors, but that doesn't prohibit seniors for applying.

In response to Chair Nitafan's question, Mr. Reliford responded that the City is in good shape because the Midtown Plan allows the City to steer development within that area and allows the City to have greater densities.

## **5. PERSONAL RAPID TRANSIT**

**PRESENTATION:** A presentation on Personal Rapid Transit (PRT) by Rob Means, representing the Sunnyhills Neighborhood Association.

Chair Nitafan introduced Agenda Item No. 11 under New Business.

**Rob Means**, representing the Sunnyhills Neighborhood Association, presented a Personal Rapid Transit (PRT) Presentation, which is comprised of cabs, guide ways, and stations like taxicabs.

Commissioner Galang asked Mr. Means why he recommends the PRT system to the City of Milpitas. Mr. Means explained that the PRT system makes sense due to traffic congestion and pollution problems, cost of gasoline, and that cars are unsafe when they are mixed with pedestrians and cyclists. He stated that the cabs would be far safer than getting into an automobile, and less expensive, cleaner, quieter and good for Milpitas.

Commissioner Galang asked if there is another state that has this type of transit and Mr. Means responded that Skyway express is looking into the PRT technology and has a prototype vehicle in Minneapolis.

Commissioner Lalwani asked what government entity would fund this project and Mr. Means responded that funding could come from transit projects, basically money from the region, state, and federal governments.

Commissioner Lalwani asked how feasible is the project and Mr. Means replied that there are advantages such as name recognition and new technology to the City.

Commissioner Giordano mentioned that she had watched the PRT video and thought there was a location of the system in Minneapolis. Mr. Means responded, "No", and explained that Minneapolis only has a minimal prototype.

Commissioner Giordano asked who will be owning the project and Mr. Means replied that the PRT system would have to be owned by public agencies because they wouldn't make money, just like the bus systems. He explained that with PRT Technology, it is inexpensive to build and operate and also noted that a study was done in Palo Alto and it looked like the PRT system would be able to make money.

Commissioner Sandhu asked if the PRT system is safe and Mr. Means explained that the PRT system is actually much safer than cars driving around because it is automatically controlled. He explained that there are no crossovers, no intersections, and the system would merge when a pedestrian gets off of the system. He said that seniors and young people would be able to use the system to their advantage.

Commissioner Sandhu asked how will the project be designed and Mr. Means explained that the PRT system would be designed like a guide way, the poles would hold it up, and it would be about 16 feet in the air.

Chair Nitafan asked Mr. Means how long has he been promoting the project and Mr. Means replied, "2 years".

Chair Nitafan suggested that Mr. Means have a specific timeline to get the project where it needs to go. Chair Nitafan also suggested that Mr. Means convince the City Council to put the project on the five year Capital Improvement plan, and offer a feasibility study, and funding structure. He also recommended that Mr. Means set up a task force.

Commissioner Galang agreed that Chair Nitafan offered good advice and added that the PRT system seems very interesting and exciting and recommended that Mr. Means might want to invite a Council member to attend a trip to Minneapolis to see their PRT system.

Mr. Means handed out a survey and Commissioner Galang and Chair Nitafan requested a videotape and Mr. Means agreed.

## **XII. ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:01 p.m. to the next regular meeting of January 14, 2004. Chair Nitafan wished everyone a Merry Christmas and Happy New Year.

Respectfully Submitted,

James Lindsay  
Planning Commission  
Secretary

Veronica Rodriguez  
Recording Secretary